SINGLE BENCH

(1)

C.8.1031

05

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 4433 OF 2005

PETITIONER

D.S. Thakur, son of Late Heera Ram Thakur, aged about 44 years, presently working as Chief Executive Officer, Janpad Panchayat Arang, District Raipur (C.G.)

P.A.No. 4629/05
Presented by Shaljendra Shukla
dated 9/9/05

VS

RESPONDENTS

1. State of Chhattisgarh, through the Secretary, Department of Panchayat & Rural Development, D.K.S. Bhawan, Raipur.

2. Shri Ashok Chaturvedi, presently working as Prashikshak Vishesag, C.G. Gramin Garibi Unmulan Pariyojna, Raipur.

3. Shri K.K. Tiwari, presently working as Chief Executive Officer, Janpad Panchayat Navagarh, District Champa-Janjgir.

RECEIVED-COPY
9/9/05
CLERK to A. G. BILASPUR

(2)

04

WRIT PETITION UNDER ARTICLE 227 & 226 OF

THE CONSTITUTION OF INDIA.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..W.P. 4433..... **सन् 200** 5

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	16.9.2005 Petitioner by Dr. N. K. Shukla, Senior Advocate with Shri Sunil Meshra, Advocate. Respondent No.1 by Shri Bhaskar Pyasi, Panel lawyer. Heard. In the present petition the petitioner impugns the order dated 5.9.2005 (Annexure P/4) whereby 16 persons, including the petitioner, have been transferred to various places. Learned counsel for the petitioner submits that the petitioner has been subjected to frequent transfer as within a period of 2 years i.e. 5.4.2003 to 5.9.2005, he has been transferred four times. The petitioner was working as Chief Executive Officer, Janpad Panchayat, Abhanpur, District- Raipur, vide order dated 5.4.2003 he was transferred to Janpad Panchayat Jaijaipur, District- Janjgir Champa, from where, vide order dated 5.7.2003 he was transferred to Janpad Panchayat, Bemetera, District- Durg, and from where, vide order dated 29.7.2004 he was transferred to the present place of posting i.e. Janpad Panchayat, Arang. Vide impugned order dated	

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मामला क्रमांक ....W.P. 4433..... **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

5.9.2005 he has been transferred from Arang to Janpad Panchayat, Dondilohara, District- Durg. Learned counsel for the petitioner contends that this amounts to malafide exercise of powers by the respondents. In support of his contention learned counsel relies upon the decision of Supreme Court in the case of B. Baradha Rao Vs. State of Karnataka & others, A.I.R. 1986 S.C. 1955, wherein the observations made in the case of E. P. Royappa Vs. State of Tamil Nadu, A.I.R. 1974 S.C. 555 were considered and quoted as under:-

> *"5. .....Frequent transfers, without sufficient reasons to justify such transfers, cannot but be held as mala fide. A transfer is mala fide when it is made not for professed purpose, such as in normal course or in public or administrative interest or in the exigencies of service but for other purpose than is to accommodate another person for undisclosed reasons. It is the basic principle of rule of law and good administration, that even administrative actions should be just and fair....."*

In the above cited case the 'frequent transfer' is not interpreted. The 'frequent transfer' depends on the facts and circumstances of a particular case. A transfer which is made

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

after a gap of one or two months frequently, within a reasonable period of six months or eight months may be held as frequent transfers. In the present case, it is noticed that the first and second transfer orders were made frequently, but the present transfer is made after a gap of 13 months from the earlier transfer order, therefore, it does not come under the scope of 'frequent transfer' and to hold this transfer as malafide. It appears that the impugned transfer order has been passed due to the administrative exigency, as the petitioner alone has not been transferred, but 15 more persons have been transferred in administrative interest or in the need of service.

In view of the foregoing the petition stands dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur

18.11.05